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Attorney's Docket 040021-0306970
Client Reference: OPP 030892 US

FEB 03 2005**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re PATENT APPLICATION of:
KWAN-JU KOH

Confirmation No: 3145

Application No.: 10/725,383

Group Art Unit: 2826

Filed: December 3, 2003

Examiner: FORDE, REMMON

Title: MOS TRANSISTOR AND FABRICATION METHOD THEREOF

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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Response to Restriction Requirement

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(Certification of Facsimile Transmission—page 1)

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RESPONSE TO RESTRICTION REQUIREMENT

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401 Dulany Street
Alexandria, VA 22314

Sir:

In response to the Restriction Requirement, dated January 5, 2005, Applicant hereby provisionally elects the invention of Group I, claims 1-8. This election is made with traverse.

It is respectfully submitted that the subject matter of the Groups I and II is sufficiently related that a thorough search and examination for Group I would necessarily encompass the search and examination of Group II. Group I is directed to a MOS transistor and Group II is directed to a method of fabricating a MOS transistor. MPEP §803 states "If the search and examination of entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions." In addition, MPEP §803 states that there are two criteria for a proper requirement for restriction between patentable distinct inventions: (A) the inventions must be independent or distinct as claimed; and (B) there must be a serious burden on the examiner if restriction is required. It is respectfully submitted that the search and examination can be made by the Examiner without serious burden and that the criteria for a proper requirement set forth in MPEP §803 has not been met and that the requirement is improper and must be withdrawn. It is respectfully submitted that the Restriction Requirement should be withdrawn in order to avoid duplicative examination by the Patent Office and unnecessary expense to Applicant. A prompt and favorable action on the merits is respectfully requested.

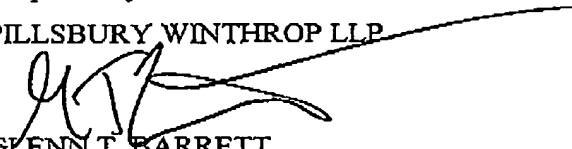
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Respectfully submitted,

PILLSBURY WINTHROP LLP


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